

## **401 KAR 51:180. NOx credits for early reduction and emergency.**

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 C.F.R. 51.121 as amended at 65 FR 11222 (March 2, 2000), 51.122, 72.2, 75.1, 75.2, 75.4, 75.11-75.13, 75.17, 75.19, 75.20, 75.24, 75.70, 75.72, 75.74, 75.75, Part 96, 42 U.S.C. 7410

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 C.F.R. 51.121 as amended at 65 FR 11222 (March 2, 2000), 51.122, 72.2, 75.1, 75.2, 75.4, 75.11-75.13, 75.17, 75.19, 75.20, 75.24, 75.70, 75.72, 75.74, 75.75, Part 96, 42 U.S.C. 7410

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Environmental and Public Protection Cabinet to promulgate administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides for the distribution of NOx allowances from a compliance supplement pool allocated to Kentucky by the U.S. EPA for sources that reduce nitrogen oxides (NOx) emissions before the compliance deadline of the federal mandate published under the NOx SIP Call. It also provides for setting aside unused credits to assist sources that are unable to meet the compliance deadline. This administrative regulation is not more stringent nor otherwise different than the provisions allowed under the federal mandate.

Section 1. Applicability. This administrative regulation shall apply to a NOx budget unit in Kentucky.

Section 2. Procurement and Use of Early Reduction Credits (ERCs). (1) ERCs may be earned for reductions in NOx emissions achieved during the 2001, 2002, and 2003 control periods.

(2) NOx allowances given for earned ERCs may be deducted for compliance with NOx emission standards in 401 KAR 51:160 only during the 2004 and 2005 control periods.

(3) ERCs shall not be earned for emission reductions made to satisfy requirements under the Clean Air Act.

Section 3. The Compliance Supplement Pool. (1) The compliance supplement pool shall be divided into separate pools (utility and industry) based on the ratio of the NOx emission reductions required from each group to the total reductions required from both groups multiplied by the number of ERCs in the compliance supplement pool as specified in the Kentucky State Implementation Plan (SIP).

(2) The utility pool shall be further divided into separate annual allocations as follows:

(a) Twenty (20) percent of the utility pool to be allocated for NOx emission reductions achieved in 2001;

(b) Thirty (30) percent of the utility pool to be allocated for NOx emission reductions achieved in 2002; and

(c) Fifty (50) percent of the utility pool to be allocated for NOx emission reductions achieved in 2003.

(3) The entire industry pool shall be available for distribution beginning in 2002 and shall be allocated annually through 2004 for NOx emission reductions achieved in 2001, 2002, and 2003 or until all available NOx allowances are allocated.

(4) Unrequested NOx allowances from the previous year shall be made available in the applicable pool for the next annual allocation.

Section 4. Methodology for Determining Allocation of ERCs. (1) The annual allocation of ERCs shall be made based on the actual NOx emission reductions achieved for each NOx

budget unit during the 2001, 2002, and 2003 control periods compared to the unit's baseline NOx emission rate during the 2000 control period.

(2) Baseline emissions shall be determined using the procedures in 40 CFR 96.70 to 96.76.

(3) ERCs shall be granted only for NOx emission reductions that are monitored pursuant to Section 6 of this administrative regulation and reported pursuant to Section 7 of this administrative regulation.

(4) An ERC shall be granted for each ton of NOx emission reduction achieved below 0.45 lbs/MMBTU or the average NOx emission rate (in lbs/MMBTU) from the baseline control period in 2000, whichever is less.

(5) ERCs shall be rounded to the nearest whole number and distributed in the form of one (1) NOx allowance for one (1) ton of NOx emission reduction.

(6) If the requests for ERCs exceeds the maximum NOx allowances available for distribution in the applicable pool for an annual allocation, the cabinet shall distribute the ERCs on a proportional basis using the following calculation: the NOx budget unit's allocated ERCs shall equal the unit's NOx emission reductions determined pursuant to subsection (3) of this section divided by the total NOx emission reductions from all units in the applicable pool multiplied by the ERCs available for distribution in that pool.

(7) NOx allowances shall be distributed annually on or before May 1 of each year for the previous year's NOx emission reductions beginning in 2002 and ending in 2004.

(8) The cabinet shall notify the U.S. EPA of the final allocation on or before May 31, 2004.

Section 5. NOx Credits for Emergency Use. After allocations are made pursuant to Section 4 of this administrative regulation for 2001, 2002, and 2003, credits that remain in the compliance supplement pools shall be used by the cabinet to assist sources that are unable to meet the compliance deadline in 401 KAR 51:160 according to the following restrictions:

(1) ERCs remaining in the utility pool shall only be used to assist electric generating units and ERCs remaining in the industry pool shall only be used to assist industrial boilers or turbines.

(2) Credits shall be issued by the cabinet to extend the compliance deadline only for sources that meet the following conditions:

(a) Electric generating units for which meeting the compliance deadline would seriously jeopardize the reliability of the electric supply, and for which it was not feasible to import electricity from other sources in order to meet the deadline;

(b) Industrial boilers and turbines for which meeting the compliance deadline would create an undue risk comparable to that for utility sources in paragraph (a) of this subsection; and

(c) Sources able to demonstrate that it was not possible to acquire sufficient NOx allowances to meet the compliance deadline by:

1. Generating ERCs;

2. Acquiring ERCs from other sources; or

3. Acquiring NOx allowances from the NOx Budget Trading Program.

(3) Allowances shall be allocated, based upon need, in 2004 and 2005.

(4) A public hearing shall take place before allowances are allocated.

Section 6. Monitoring Requirements. (1) Monitoring shall be performed on a NOx budget unit for which early reduction credit is to be obtained during the 2000 control period and each subsequent control period during which NOx emission reductions will occur.

(2) Units shall be monitored in accordance with 40 CFR 96.70 to 96.76.

Section 7. Reporting Requirements. (1) The owner or operator of a NOx budget source that achieves early reductions pursuant to this administrative regulation shall submit a report to the cabinet on or before January 30 of each year following the year in which reductions were achieved for the years of 2001, 2002, and 2003, documenting the actual NOx emission reductions achieved by each NOx budget unit during each control period compared to the unit's actual emissions during the 2000 control period. These reports shall contain the following information, for each NOx budget unit:

- (a) Identification and location of the unit that achieved NOx emission reductions;
  - (b) The maximum design heat input for the unit, expressed in MMBTU/hr;
  - (c) For the 2000 control period and each control period during which NOx emission reductions are achieved:
    - 1. The total hours of operation;
    - 2. The total NOx emissions, in tons;
    - 3. The average NOx emission rate, in lbs/MMBTU;
    - 4. The maximum allowable NOx emission rate, based on the most stringent applicable requirement, in lbs/MMBTU; and
    - 5. Calculations showing the tons of NOx emission reductions below 0.45 lbs/MMBTU or the average NOx emission rate (in lbs/MMBTU) from the baseline season, whichever is less.
- (2) The report required in subsection (1) of this section shall be signed by the owner or operator of the NOx budget source and submitted to:
- (a) Manager, Permit Review Branch, Kentucky Division for Air Quality, 300 Sower Boulevard, Frankfort Kentucky 40601; and
  - (b) The appropriate regional office of the Division for Air Quality as follows:
    - 1. Ashland Regional Office, 1550 Wolohan Suite 1, Ashland, Kentucky 41102, (606) 929-5285;
    - 2. Bowling Green Regional Office, 2642 Russellville Road, Bowling Green, Kentucky 42101, (270) 746-7475;
    - 3. Florence Regional Office, 8020 Veterans Memorial Drive, Suite 110, Florence, Kentucky 41042, (859) 525-4923;
    - 4. Frankfort Regional Office, 300 Sower Boulevard, Frankfort Kentucky 40601, (502) 564-3358;
    - 5. Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-6022;
    - 6. London Regional Office, 875 S. Main Street, London, Kentucky 40741, (606) 330-2080;
    - 7. Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky 42303, (270) 687-7304; or
    - 8. Paducah Regional Office, 130 Eagle Nest Drive, Paducah, Kentucky 42003, (270) 898-8468. (27 Ky.R. 2611; Am. 3283; 28 Ky.R. 377; eff. 8-15-2001; TAm eff. 8-9-2007; TAm eff. 5-20-2010; TAm eff. 9-16-2013; TAm eff. 4-2-2014; TAm eff. 7-8-2016.)